

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a BRAZOS
LICENSING AND DEVELOPMENT,

Plaintiff,

v.

DELL TECHNOLOGIES INC., DELL INC.,
EMC CORPORATION, AND VMWARE,
INC.,

Defendants.

Case No. 6:20-cv-00485-ADA

**DECLARATION OF BRIAN A. ROSENTHAL IN SUPPORT OF
DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

I, Brian A. Rosenthal, declare as follows:

1. I am an attorney permitted to practice law before this Court *pro hac vice* and am licensed to practice law in New York and the District of Columbia. I am a partner with the law firm of Gibson, Dunn & Crutcher LLP and counsel of record for Defendants Dell Technologies Inc., Dell Inc., EMC Corporation, and VMware, Inc. in the above-captioned action. I have personal knowledge and/or am directly informed of the matters stated below and, if called, would testify to them under oath.

2. Attached hereto as **Exhibit A** are true and correct copies of excerpts from the file history of U.S. Patent No. 7,636,309, specifically from a June 5, 2009 Response and Amendment filed by the applicant. These excerpts were retrieved from the United States Patent Office's website (<https://portal.uspto.gov/pair/PublicPair>) on October 3, 2020.

3. Attached hereto as **Exhibit B** are true and correct copies of excerpts from the file history of U.S. Patent No. 7,636,309, specifically from an August 12, 2009 Examiner Interview Summary. These excerpts were retrieved from the United States Patent Office's website (<https://portal.uspto.gov/pair/PublicPair>) on October 3, 2020.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 5, 2020

/s/ Brian A. Rosenthal
Brian A. Rosenthal